

(1995) 09 MAD CK 0029
In the Madras High Court

Mariya Anthoni Sahaya Johnsi Rani

APPELLANT

Vs

Joseph Louis Babu and Another

RESPONDENT

Date of Decision : 15-09-1995

Acts Referred:

Divorce Act, 1869 — Section 45

Citation : (1996) 1 LW 225 : (1996) 1 MLJ 58

Hon'ble Judges : Srinivasan, J

Bench : Single Bench

Judgement

Srinivasan, J.—The wife is the petitioner. She has sought for divorce on the ground that the husband is guilty of adultery coupled with

desertion. The respondents remained ex parte in the court below. The wife has given evidence in support of her case, which has been accepted by

the Additional Family Court at Madras, and a decree for divorce has been granted. Now it has come up before us for confirmation.

2. The amicus curiae appointed by this Court for representing the respondents has raised an objection as to the jurisdiction of the Family Court,

Madras, on the footing that the marriage took place at Nagapattinam, according to the averments in the original petition and it could not therefore

have been filed at Madras. There is no substance in this objection. In paragraph 4 of the petition, it is clearly averred that after marriage, the

petitioner and the 1st respondent were living together as husband and wife at No. 59, Second Street, Pudupet, Madras-2. Apart from that, it is

seen from the petition that all the parties to the petition are living only in Madras.

3. There is no express provision in the Indian Divorce Act with regard to jurisdiction of the court, Section 45 of the Act provides that all

proceedings under the Act, shall be regulated by the Code of Civil Procedure. Under the Code of Civil Procedure, a suit can be filed at the place

where the defendant resides. In the present case, both the defendants as well as the plaintiff are living in Madras. Hence, the proceedings taken in

the Family Court at Madras is validly taken and the said court has jurisdiction.

4. On the evidence, we find that the case of the wife has been made out and the learned Judge in the court below has justly granted the decree for

divorce. Hence, the decree for divorce is confirmed.